

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED

June 16, 2011

In the Matter of S. D. PORTER, Jr., Minor.

No. 301769
Wayne Circuit Court
Family Division
LC No. 08-484285

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Before: METER, P.J., and CAVANAGH and SERVITTO, JJ.

PER CURIAM.

Respondents appeal as of right from the trial court order terminating their parental rights to their minor child under MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.

Before terminating a respondent's parental rights, the trial court must make a finding that at least one of the statutory grounds under MCL 712A.19b(3) has been established by clear and convincing evidence. *In re Mason*, 486 Mich 142, 152; 782 NW2d 747 (2010). The trial court must order termination of parental rights if it finds that termination is in the child's best interests. MCL 712A.19b(5). This Court reviews parental termination cases for clear error. MCR 3.977(K). To warrant reversal, the trial court's decision must be more than maybe or probably wrong. *In re Williams*, 286 Mich App 253, 271; 779 NW2d 286 (2009). Clear error exists "if the reviewing court has a definite and firm conviction that a mistake has been committed, giving due regard to the trial court's special opportunity to observe the witnesses." *In re BZ*, 264 Mich App 286, 296-297; 690 NW2d 505 (2004).

The trial court did not clearly err in finding that §§ (3)(c)(i), (g), and (j) were established by clear and convincing evidence. With regard to respondent-mother, the conditions that led to petitioner's intervention included long-standing substance abuse, chronic mental illness, unstable housing, and financial instability. Respondent-mother had nearly two years to overcome her drug addiction, manage her bipolar disorder, provide a stable home environment, and achieve financial stability. There was substantial evidence that petitioner provided respondent-mother

with ample services to facilitate reunifying the family. Offered services included psychiatric and psychological evaluations and mental health assessment through Juvenile Assessment Center (JAC) and Clinic for Child Study, transportation assistance, individual counseling, supervised parenting time, and random drug screenings.

The court properly concluded that respondent-mother had not complied with her treatment plan. Specifically, she failed to (1) successfully engage in mental health services, including regular medication reviews, (2) maintain stable, suitable housing, (3) maintain regular, legal employment, (4) maintain regular weekly contact with petitioner, and (5) regularly attend court-ordered parenting time. Most importantly, respondent failed to complete substance abuse treatment, follow all recommendations, and achieve sobriety. The court correctly found that respondent had a chronic substance abuse and mental health history. Clearly, respondent-mother failed to address the issues that brought her child before the court.

Respondent-mother argues that there was no showing that she would not be able to care for her child presently or in the reasonably near future. Respondent-mother asserts that she showed significant progress throughout the case and offered some proof that she was able to care for her child. These arguments are meritless. The trial court heard persuasive testimony from the caseworker that respondent-mother did not benefit from reunification services. Respondent-mother was unable to properly care for her child and keep him out of harm's way because her inadequate parenting skills, drug dependency, and mental health issues largely remained unchanged. The court record, as a whole, supported a finding that respondent-mother would be unlikely to achieve and maintain her sobriety and properly care for her child in the long term.

"If the court finds that there are grounds for termination of parental rights and that termination of parental rights is in the child's best interests, the court shall order termination of parental rights and order that additional efforts for reunification of the child with the parent not be made." MCL 712A.19b(5); accord MCR 3.977(H)(3). Respondent-mother asserts that she behaved appropriately during visitations and had bonded with her child. Respondent-mother points to the trial court's finding that it was not in the best interests of respondent-mother's older child, D. Martin, to terminate her parental rights to him. Likewise, respondent-mother argues, it was against S. D. Porter's best interests to terminate her parental rights.

This argument is also groundless. While it was undisputed that respondent-mother behaved appropriately during visitations and had a bond with S. D. Porter, the trial court correctly ruled that terminating respondent-mother's parental rights was in the child's best interests. The trial court emphasized that the sole reason for finding it was not in D. Martin's best interests to terminate respondent-mother's parental rights was because that child's father's rights remained intact, which precluded placing him for adoption. The trial court clearly stated that it would likely have terminated respondent-mother's parental rights to D. Martin as well as S. D. Porter if there was no potentially suitable father to care for the older child. Thus, the trial court's best interests determination for D. Martin does not bolster respondent-mother's claim that it was in S. D. Porter's best interests to remain with her.

With regard to respondent-father, the conditions that led to petitioner's intervention included respondent-father's physically abusive behavior, long-standing substance abuse, unstable housing, and financial instability. Respondent-father, like respondent-mother, had

nearly two years to overcome his drug addiction, improve his parenting skills, provide a stable home environment, and achieve financial stability. There was substantial evidence that petitioner provided respondent-father with ample services to facilitate reunifying the family. Offered services included psychological evaluations through JAC and Clinic for Child Study, domestic violence counseling and individual substance abuse therapy, supervised parenting time, and random drug screenings.

The court properly concluded that respondent-father had not complied with his treatment plan. Specifically, he failed to (1) participate in individual counseling (2) maintain stable, suitable housing, (3) maintain regular, legal employment, (4) maintain regular weekly contact with petitioner, and (5) regularly attend court-ordered parenting time. Most importantly, respondent-father failed to complete substance abuse treatment, follow all recommendations, and achieve sobriety. The court correctly found that respondent-father had a chronic substance abuse history. There was ample evidence that respondent-father had not made any substantial progress toward achieving sobriety. Clearly, respondent failed to address the issues that brought his child before the court. These proofs satisfied all three statutory grounds for termination of respondent-father's parental rights.

Respondent-father argues that he substantially complied with the court-ordered treatment plan and recognized and was remorseful for his past inappropriate physical disciplining of D. Martin. Respondent-father had completed two parenting courses and had attended substance abuse and individual counseling sessions. He always behaved appropriately in court and during visitations. Respondent-father had a bond with his child. Moreover, respondent-father asserts, the evidence presented at trial to show his noncompliance with the treatment plan was unreliable. These arguments are meritless. The trial court heard persuasive and credible testimony from the caseworker that respondent-father was repeatedly noncompliant with his treatment plan. He did not participate in or benefit from offered individual counseling. He rarely participated in supervised visitation. Respondent-father remained unemployed until just before the termination hearing. He did not maintain regular contact with his caseworker. Respondent-father habitually failed his drug screens. Despite support services, respondent-father did not benefit from petitioner's services and his behaviors, drug dependence, unsuitable housing, and financial instability remained unchanged. There was no significant change in his neglectful parenting behaviors after nearly two years of services from petitioner. Reviewing the whole record and assessing the caseworker's credibility, the trial court reasonably concluded that respondent-father was incapable of providing a long-term stable home environment and proper care for the child. Termination of his parental rights was in the child's best interests.

Affirmed.

/s/ Patrick M. Meter
/s/ Mark J. Cavanagh
/s/ Deborah A. Servitto